

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ASHLEY M GJOVIK,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 23-cv-04597-EMC

**ORDER DENYING PLAINTIFF'S  
MOTION TO DISQUALIFY**

Docket Nos. 156

Currently pending before the Court is Ms. Gjovik's motion to disqualify defense counsel, the Orrick law firm. Having considered the papers submitted, the Court finds the matter suitable for disposition on the papers. The hearing on the motion is therefore **VACATED**. Ms. Gjovik's motion to disqualify is **DENIED**.

**I. DISCUSSION**

**A. Legal Standard**

"The right to disqualify counsel is a discretionary exercise of the trial court's inherent powers." Under the Civil Local Rules of the Northern District of California, all attorneys who practice in the Northern District must comply with the standards of professional conduct required of members of the State Bar of California. Thus, motions to disqualify counsel are decided under state law. . . . Under California law, the issue of disqualification "ultimately involves a conflict between the clients' right to counsel of their choice and the need to maintain ethical standards of professional responsibility."

*Del Campo v. Mealing*, C 01-21151 JW, 2011 U.S. Dist. LEXIS 158019, at \*6-8 (N.D. Cal. Sept. 29, 2011). In considering a motion to disqualify, a court must bear in mind "the preservation of public trust in the scrupulous administration of justice and the integrity of the bar." *Id.* at \*8. On the other hand, a court must also take into account that motions to disqualify are often tactically

1 motivated; thus, in and of themselves, they can be a threat to the integrity of the judicial process  
 2 they purport to protect. *See Visa U.S.A., Inc. v. First Data Corp.*, 241 F. Supp. 2d 1100, 1103-  
 3 1104 (N.D. Cal. 2003). For this reason, motions to disqualify are often considered a drastic  
 4 measure, are disfavored, and are subject to close scrutiny. *See id.*

5 B. Basis for Disqualification

6 In her motion, Ms. Gjovik identifies multiple grounds on which to disqualify Orrick. They  
 7 include the following: (1) Orrick has repeatedly harassed her online; (2) Orrick is a fact witness  
 8 because its harassment was part of Apple's retaliation against her; (3) Orrick is also a fact witness  
 9 because Apple knowingly misrepresented to Ms. Gjovik that there were no other complaints  
 10 lodged against one of her supervisors but Orrick knew this was not true based on its representation  
 11 of Apple in a different lawsuit; (3) Orrick has either conspired with or coerced Cher Scarlett,  
 12 another former Apple employee, to harass Ms. Gjovik (*e.g.*, when Ms. Scarlett filed a restraining  
 13 order suit against Ms. Gjovik); (4) Orrick advised Apple on her termination and further has  
 14 concealed that Ms. Scarlett played a role in the retaliation against and/or termination of Ms.  
 15 Gjovik; (5) Orrick has engaged in additional conduct that has obstructed discovery (*e.g.*, through  
 16 blanket assertions of privilege); (6) Orrick lacks competence in environmental and privacy law  
 17 and is improperly trying to dismiss her environmental and privacy claims; and (7) there was a data  
 18 breach at Orrick that may have compromised Ms. Gjovik's private information.

19 None of the grounds, whether considered individually or collectively, warrants  
 20 disqualification. For example, it is sheer speculation on the part of Ms. Gjovik that Orrick has  
 21 been part of the online harassment and/or that Orrick has conspired with or coerced Ms. Scarlett.  
 22 *See, e.g.*, Mot. at 5-7 (arguing that Orrick must have been part of the online harassment because  
 23 online attacks increased after Orrick first made an appearance in her whistleblower retaliation case  
 24 with the U.S. Department of Labor and after Orrick suffered legal setbacks in other employment  
 25 cases where they represented Apple); Mot. at 6, 11 (suggesting that Orrick and Ms. Scarlett were  
 26 colluding because Orrick obtained a copy of Ms. Scarlett's restraining order against Ms. Gjovik  
 27 "on the same day [it] filed Apple's position statement with the Department of Labor" and because  
 28 Orrick used an email from Ms. Scarlett to justify Ms. Gjovik's termination).

To the extent Ms. Gjovik argues that Orrick has engaged in discovery misconduct (*e.g.*, concealing the role of Ms. Scarlett and making blanket assertions of privilege), that is a matter that should first be raised in the first instance with the magistrate judge presiding over discovery matters. There has been no finding by the magistrate judge assigned to handle discovery in this case that Orrick has engaged in abusive conduct in the handling of discovery.<sup>1</sup>

Ms. Gjovik's contention that Orrick is a fact witness lacks merit. As noted above, her assertion that Orrick has been part of the harassment against her is entirely unfounded. As for Apple's allegedly false statement that no complaints had ever been made against one of her supervisors, that is something that Ms. Gjovik should be able to prove, if untrue, through an Apple employee, not its counsel. Furthermore, as Orrick points out, the fact that it purportedly learned information through its representation of Apple does not make it a fact witness.

Finally, Ms. Gjovik's arguments of Orrick incompetence and a data breach at the firm as a basis for disqualification have no support.


## II. CONCLUSION

For the foregoing reasons, the motion to disqualify is denied.

This order disposes of Docket No. 156.

**IT IS SO ORDERED.**

Dated: February 24, 2025



EDWARD M. CHEN  
United States District Judge

<sup>1</sup> At the time Ms. Gjovik filed her motion to disqualify, she had not filed any motion for relief with the magistrate judge. Ms. Gjovik did not file any motions with the magistrate judge until some ten days later.